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requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(2) *Contents of request for waiver.* A request for a waiver or reduction of fees shall include:

(i) A clear statement of the requester's interest in the documents;

(ii) The use proposed for the documents and whether the requester will derive income or other benefit for such use;

(iii) A statement of how the public will benefit from such use and from the Board's release of the documents;

(iv) A description of the method by which the information will be disseminated to the public; and

(v) If specialized use of the information is contemplated, a statement of the requester's qualifications that are relevant to that use.

(3) *Burden of proof.* The burden shall be on the requester to present evidence or information in support of a request for a waiver or reduction of fees.

(4) *Determination by Secretary.* The Secretary shall make a determination on the request for a waiver or reduction of fees and shall notify the requester accordingly. A denial may be appealed to the Board in accordance with § 261.13(i).

(g) *Employee requests.* In connection with any request by an employee, former employee, or applicant for employment, for records for use in prosecuting a grievance or complaint of discrimination against the Board, fees shall be waived where the total charges (including charges for information provided under the Privacy Act of 1974 (5 U.S.C. 552a) are \$50 or less; but the Secretary may waive fees in excess of that amount.

(h) *Special services.* The Secretary may agree to provide, and set fees to recover the costs of, special services not covered by the Freedom of Information Act, such as certifying records or information and sending records by special methods such as express mail or overnight delivery.

### APPENDIX A TO § 261.17—FREEDOM OF INFORMATION FEE SCHEDULE

Duplication:

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### APPENDIX A TO § 261.17—FREEDOM OF INFORMATION FEE SCHEDULE—Continued

Photocopy, per standard page .....	\$0.10
Paper copies of microfiche, per frame ..	.10
Duplicate microfiche, per microfiche .....	.35
Search and review:	
Clerical/Technical, hourly rate .....	20.00
Professional/Supervisory, hourly rate ....	38.00
Manager/Senior Professional, hourly rate .....	65.00
Computer search and production:	
Computer operator search, hourly rate .....	32.00
Tapes (cassette) per tape .....	6.00
Tapes (cartridge), per tape .....	9.00
Tapes (reel), per tape .....	18.00
Diskettes (3½"), per diskette .....	4.00
Diskettes (5¼"), per diskette .....	5.00
Computer Output (PC), per minute .....	.10
Computer Output (mainframe) .....	( <sup>1</sup> )

<sup>1</sup> Actual cost.

[62 FR 54365, Oct. 20, 1997; 62 FR 62508, Nov. 24, 1997]

### Subpart C—Confidential Information Made Available to Supervised Institutions, Financial Institution Supervisory Agencies, Law Enforcement Agencies, and Others in Certain Circumstances

#### § 261.20 Confidential supervisory information made available to supervised financial institutions and financial institution supervisory agencies.

(a) *Disclosure of confidential supervisory information to supervised financial institutions.* Confidential supervisory information concerning a supervised bank, bank holding company (including subsidiaries), U.S. branch or agency of a foreign bank, savings and loan holding company (including subsidiaries), or other institution examined by the Federal Reserve System ("supervised financial institution") may be made available by the Board or the appropriate Federal Reserve Bank to the supervised financial institution.

(b) *Disclosure of confidential supervisory information by supervised financial institution—*(1) *Parent bank holding company, parent savings and loan holding company, directors, officers, and employees.* Any supervised financial institution lawfully in possession of confidential supervisory information of the Board pursuant to this section may

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disclose such information, or portions thereof, to its directors, officers, and employees, and to its parent bank holding company or parent savings and loan holding company and its directors, officers, and employees.

(2) *Certified public accountants and legal counsel.* Any supervised financial institution lawfully in possession of confidential supervisory information of the Board pursuant to this section may disclose such information, or portions thereof, to any certified public accountant or legal counsel employed by the supervised financial institution, subject to the following conditions:

(i) Certified public accountants or legal counsel shall review the confidential supervisory information only on the premises of the supervised financial institution, and shall not make or retain any copies of such information;

(ii) The certified public accountants or legal counsel shall not disclose the confidential supervisory information for any purpose without the prior written approval of the Board's General Counsel except as necessary to provide advice to the supervised financial institution, its parent bank holding company, or the officers, directors, and employees of such supervised financial institution and parent bank holding company.

(c) *Disclosure upon request to Federal financial institution supervisory agencies.* Upon requests, the Director of the Division of Banking Supervision and Regulation or the appropriate Federal Reserve Bank, may make available to the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board and their regional offices and representatives, confidential supervisory information and other appropriate information (such as confidential operating and condition reports) relating to a bank, bank holding company (including subsidiaries), savings and loan holding company (including subsidiaries), U.S. branch or agency of a foreign bank, or other supervised financial institution.

(d) *Disclosure upon request to state financial institution supervisory agencies.* Upon requests, the Director of the Division of Banking Supervision and Regulation or the appropriate Federal Re-

serve Bank may make available confidential supervisory information and other appropriate information (such as confidential operating and condition reports) relating to a bank, bank holding company (including subsidiaries), savings and loan holding company (including subsidiaries), U.S. branch or agency of a foreign bank, or other supervised financial institution to:

(e) *Discretionary disclosures.* The Board may determine, from time to time, to authorize other disclosures of confidential information as necessary.

(f) *Conditions and limitations.* The Board may impose any conditions or limitations on disclosure under this section that it determines are necessary to effect the purposes of this regulation.

(g) *Other disclosure prohibited.* All confidential supervisory information or other information made available under this section shall remain the property of the Board. No supervised financial institution, financial institution supervisory agency, person, or any other party to whom the information is made available, or any other officer, director, employee or agent thereof, may disclose such information without the prior written permission of the Board's General Counsel except in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any individual, corporation, or other entity. No person obtaining access to confidential supervisory information pursuant to this section may make a personal copy of any such information; and no person may remove confidential supervisory information from the premises of the institution or agency in possession of such information except as permitted by specific language in this regulation or by the Board.

(h) *Disclosure of Foreign Bank Confidential Report of Operations—(1) Availability of Foreign Bank Confidential Report of Operations to Bank Supervisory Agencies.* Notwithstanding any other provision of this regulation, any Confidential Report of Operations (Form F.R. 2068) of a foreign banking organization may, upon written request to

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and approval by the Director of the Division of Banking Supervision and Regulation (or his delegee), and with the concurrence of the General Counsel (or his delegee), be made available for inspection to another bank supervisory authority having general supervision of any United States branch, agency, subsidiary bank or commercial lending company of the foreign banking organization, only for use where necessary in the performance of official duties. These reports shall be made available for inspection by authorized persons only on Federal Reserve premises under the same procedures as apply to personnel of the Federal Reserve System. All reports made available under this paragraph shall remain the property of the Board; and no person, agency or authority who obtains access to any such report, or any officer, director, or employee thereof, shall publish, publicize, or otherwise disclose any information contained in the report to any person.

(2) *Restrictions on disclosure by Federal Reserve System employees.* It is the Board's policy that the confidentiality of a foreign banking organization's Confidential Report of Operations (Form F.R. 2068) should be maintained at all times. Except as provided by paragraph (h)(1) of this section, information submitted to the Board as part of any Confidential Report of Operations is not available for public inspection by any person other than an officer, employee, or agent of the Board or of a Federal Reserve Bank properly entitled to such information in the performance of such person's official duties. Any employee that violates this section by releasing such a report to any unauthorized person may be subject to disciplinary action under 12 CFR 264.735–5 (Rules of Employee Responsibilities and Conduct).

[53 FR 20815, June 7, 1988. Redesignated at 62 FR 54359, Oct. 20, 1997, as amended at 76 FR 56601, Sept. 13, 2011]

### **§ 261.21 Confidential information made available to law enforcement agencies and other nonfinancial institution supervisory agencies.**

(a) *Disclosure upon request.* Upon written request, the Board may make available to appropriate law enforce-

ment agencies and to other nonfinancial institution supervisory agencies for use where necessary in the performance of official duties, reports of examination and inspection, confidential supervisory information, and other confidential documents and information of the Board concerning banks, bank holding companies and their subsidiaries, U.S. branches and agencies of foreign banks, savings and loan holding companies and their subsidiaries, and other examined institutions.

(b) *Eligibility.* Federal, state, and local law enforcement agencies and other nonfinancial institution supervisory agencies may file written requests with the Board for access to confidential documents and information under this section of the regulation. Properly accredited foreign law enforcement agencies and other foreign government agencies may also file written requests with the Board.

(c) *Contents of request.* To obtain access to confidential documents or information under this section of the regulation, the head of the law enforcement agency or nonfinancial institution supervisory agency (or their designees) shall address a letter request to the Board's General Counsel, specifying:

(1) The particular information, kinds of information, and where possible, the particular documents to which access is sought;

(2) The reasons why such information cannot be obtained from the examined institution in question rather than from the Board;

(3) A statement of the law enforcement purpose or other purpose for which the information shall be used;

(4) Whether the requested disclosure is permitted or restricted in any way by applicable law or regulation;

(5) A commitment that the information requested shall not be disclosed to any person outside the agency without the written permission of the Board or its General Counsel; and

(6) If the document or information requested includes customer account information subject to the Right to Financial Privacy Act, as amended (12 U.S.C. 3401 *et seq.*), a statement that such customer account information need not be provided, or a statement as